

# C A M P A I G N F O R ACCOUNTABILITY

October 5, 2015

**BY EMAIL: [oce@mail.house.gov](mailto:oce@mail.house.gov)**

Omar Ashmawy  
Staff Director and Chief Counsel  
Office of Congressional Ethics  
1017 Longworth HOB  
Washington, D.C. 20515

RE: Request for Investigation of 11 Members for Accepting  
Campaign Contributions in Exchange for Official Action

Dear Mr. Ashmawy:

Campaign for Accountability (“CfA”) respectfully requests that the Office of Congressional Ethics (“OCE”) investigate whether the following 11 members of Congress violated House rules and criminal law by accepting campaign contributions from the payday lending industry shortly before or after taking official actions in support of the industry: Rep. Stephen Fincher (R-TN), Rep. Scott Garrett (R-NJ), Rep. Alcee Hastings (D-FL), Rep. Jeb Hensarling (R-TX), Rep. Blaine Luetkemeyer (R-MO), Rep. Patrick McHenry (R-NC), Rep. Gregory Meeks (D-NY), Rep. Randy Neugebauer (R-TX), Rep. Pete Sessions (R-TX), Rep. Steve Stivers (R-OH), and Rep. Kevin Yoder (R-KS).

A recent report, *Payday Loans Cheaper by the Dozen: How Twelve Members of Congress Were Showered with Campaign Cash by Payday Lenders Just Before and Soon After Taking Official Actions To Benefit The Industry*,<sup>1</sup> details the official actions each of these 11 members took in very close proximity to receiving campaign contributions from payday lending industry executives and industry political action committees (“PACs”).<sup>2</sup> Those official actions included sponsoring and co-sponsoring legislation that would have impaired the ability of the Consumer Financial Protection Bureau (“CFPB”) to regulate the payday lending industry and eliminated critical consumer protections against harmful payday lending practices; legislation that would have prevented the Department of Justice (“DOJ”) from taking steps through its “Operation Choke Point” program to prevent

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<sup>1</sup> A copy of this report is available at <http://alliedprogress.org/cheaperbythedozen>.

<sup>2</sup> The report also details the actions of and campaign contributions to former Rep. Spencer Bachus (R-AL) who, as a former member, is no longer subject to OCE’s jurisdiction.

Omar Ashmawy  
October 5, 2015  
Page Two

payday lenders and other unscrupulous internet-based companies from gaining access to the banking system through intermediaries; writing to DOJ about its efforts to stop unsavory lending practices; and sending letters to DOJ's inspector general requesting an investigation into Operation Choke Point. The facts for each member are set forth below.

### **Factual Background**

#### *Rep. Blaine Luetkemeyer*

Rep. Luetkemeyer has led many of the congressional efforts to protect the payday lending industry. On July 18, 2012, he introduced H.R. 6139,<sup>3</sup> a key piece of legislation in the payday lending industry's arsenal that would have "negate[d] many actions that Congress, the OCC [Office of the Comptroller of the Currency], and other federal and state agencies and supervisors have taken to safeguard consumers from the risks" of products offered by, among others, the payday lending industry.<sup>4</sup> One day earlier, the Community Financial Services Association of America ("CFSA") – the payday lending industry's special interest trade group – received a refund from Rep. Luetkemeyer of its \$2,500 campaign contribution.<sup>5</sup> Two months later, on September 17, 2012, Rep. Luetkemeyer received a \$5,000 contribution from CFSA, exactly twice the amount of the returned contribution.<sup>6</sup> He also received another \$5,000 campaign contribution on September 6, 2012, from industry PAC Cash America International Inc. PAC.<sup>7</sup>

On June 26, 2014, Rep. Luetkemeyer introduced H.R. 4986, the End Operation Choke Point Act of 2014, another key bill aimed at protecting the payday lending

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<sup>3</sup> <https://www.congress.gov/bill/112th-congress/house-bill/6139?q=%7B%22search%22%3A%5B%22%5C%22hr6139%5C%22%22%5D%7D&resultIndex=1>.

<sup>4</sup> Written Testimony of Grovetta Gardineer, Deputy Comptroller for Compliance Policy, Office of the Comptroller of the Currency, Before the House Financial Services Committee, Subcommittee on Financial Institutions and Consumer Credit, July 24, 2012, available at <http://www.occ.gov/news-issuances/congressional-testimony/2012/pub-test-2012-113-written.pdf>.

<sup>5</sup> The dates of the Political Action Committee contributions included in this letter refer to the dates listed in the Federal Election Commission (FEC) forms each PAC submitted. The dates of individual campaign contributions included in this letter refer to the dates listed on the FEC forms each member of Congress submitted. Community Financial Services Association of America Political Action Committee, *FEC Form 3X, 2012 October Quarterly Report, Amended*, October 23, 2012, available at <http://docquery.fec.gov/pdf/746/12960682746/12960682746.pdf>.

<sup>6</sup> *Id.*

<sup>7</sup> Cash America International Inc. Political Action Committee, *FEC Form 3X, 2012 October Monthly Report*, October 2, 2012, available at <http://docquery.fec.gov/pdf/141/12954268141/12954268141.pdf>

Omar Ashmawy  
October 5, 2015  
Page Three

industry by ending Operation Choke Point.<sup>8</sup> This came on the heels of a lawsuit CFSA filed against the FDIC over Operation Choke Point on June 5, 2014.<sup>9</sup> On the very day the lawsuit was filed, QC Holdings, Inc. PAC made a \$1,000 campaign contribution to Rep. Luetkemeyer.<sup>10</sup> Four days later, CFSA's PAC made a \$5,000 donation to Rep. Luetkemeyer's campaign,<sup>11</sup> and two days thereafter a payday executive, William Webster from Advance America, contributed \$2,500 to the congressman's campaign committee.<sup>12</sup>

Rep. Luetkemeyer also was instrumental in organizing sign-ons for an August 22, 2013 congressional letter to Attorney General Eric Holder and FDIC Chairman Martin J. Gruenberg, raising questions about the lawfulness of DOJ's Operation Choke Point.<sup>13</sup> DOJ has described Operation Choke Point as "a 'vertical investigation model' focusing on fraudulent merchants, third-party payment processors, and banks, and designed to 'choke off' the flow of money to the fraudulent merchants."<sup>14</sup> Its purpose was "to combat mass-market consumer fraud schemes in which financial institutions were either direct or indirect participants[.]" *Id.* Among other things, the congressional letter to which Rep. Luetkemeyer organized sign-ons accuses DOJ of "intimidating some community banks and third party payment processors" – a group that includes payday lenders – "with threats of heightened regulatory scrutiny unless they cease doing business with online lenders."<sup>15</sup> One month earlier, on July 9, 2013, Rep. Luetkemeyer had received a \$5,000 campaign contribution from Cash America International Inc. PAC.<sup>16</sup> Rep. Luetkemeyer also helped organize a letter he and other members sent to DOJ's inspector general on October 16, 2014, requesting an investigation into Operation Choke

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<sup>8</sup> <https://www.congress.gov/bill/113th-congress/house-bill/4986?q=%7B%22search%22%3A%5B%22%5C%22hr4986%5C%22%22%5D%7D&resultIndex=1>.

<sup>9</sup> Complaint, *CFSA v. FDIC*, No. 14-00953 (D.D.C. June 5, 2014).

<sup>10</sup> QC Holdings, Inc. Political Action Committee, *FEC Form 3X, 2014 July Monthly Report, Amended*, July 31, 2014, available at <http://docquery.fec.gov/pdf/272/14942394272/14942394272.pdf>.

<sup>11</sup> Community Financial Services Association of America Political Action Committee, *FEC Form 3X, 2014 July Quarterly Report*, July 14, 2014, available at <http://docquery.fec.gov/pdf/293/14941776293/14941776293.pdf>.

<sup>12</sup> Blaine for Congress, *FEC Form 3, 2014 July Quarterly Report, Amended*, November 18, 2014, available at <http://docquery.fec.gov/pdf/032/14952592032/14952592032.pdf>.

<sup>13</sup> The letter is attached as Exhibit A.

<sup>14</sup> Letter from U.S. Department of Justice, Office of Professional Responsibility to the Honorable Blaine Luetkemeyer regarding OPR Inquiry Regarding Operation Choke Point, July 7, 2015, at 4, available at <http://big.assets.huffingtonpost.com/ChokePointOPRReport.pdf>.

<sup>15</sup> See Exhibit A.

<sup>16</sup> Cash America International Inc. Political Action Committee, *FEC Form 3X, 2013 August Monthly Report*, August 1, 2013, available at <http://docquery.fec.gov/pdf/453/13964491453/13964491453.pdf>.

Omar Ashmawy  
October 5, 2015  
Page Four

Point.<sup>17</sup> On August 7, 2014, he had received a \$5,000 campaign contribution from Cash America International Inc. PAC,<sup>18</sup> and on September 5, 2014, just weeks before the letter, he had received a \$2,500 campaign contribution from ACE Cash Express Inc. PAC.<sup>19</sup>

*Rep. Kevin Yoder*

Rep. Yoder also has been a major player in protecting the payday lending industry. He signed on to co-sponsor H.R. 1121 on March 16, 2011.<sup>20</sup> In the preceding weeks he had received a total of \$24,800 in campaign contributions from payday lending executives, PACs, and related individuals. These include \$2,500 from QC Holdings, Inc. PAC on February 24, 2011; \$1,000 from Cash America International Inc. PAC on March 4, 2011; \$2,300 from James Darrin Andersen of QC Holdings and \$2,500 from Jill Andersen of the same address as Mr. Andersen on March 28, 2011; \$500 from Douglas E. Nickerson, also of QC Holdings, on March 28, 2011; two separate payments of \$5,000 and \$2,500 from QC Holdings, Inc. PAC on March 28, 2011; \$500 from Darin Scott Smith of QC Holdings on March 29, 2011; \$2,500 each from Don and Mary Lou Early of QC Holdings on March 30, 2011; \$2,000 from Mary Ann Powell, also of QC Holdings, on March 30, 2011; \$500 from R. Brian Elvin of QC Holdings on March 31, 2011; and \$500 from Matthew J. Wiltanger, also of QC Holdings, on March 31, 2011.<sup>21</sup>

Rep. Yoder assisted Rep. Luetkemeyer in organizing sign-ons for the August 22, 2013 letter to the attorney general and FDIC chair. He also signed on to co-sponsor H.R. 1566 on October 23, 2013.<sup>22</sup> In the intervening time period, he received a total of

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<sup>17</sup> Letter to the Honorable Michael Horowitz, Inspector General, U.S. Department of Justice and Robin Ashton, Counsel, Office of Professional Responsibility, U.S. Department of Justice, October 16, 2014, available at [http://luetkemeyer.house.gov/uploadedfiles/10\\_16\\_14\\_doj\\_letter.pdf](http://luetkemeyer.house.gov/uploadedfiles/10_16_14_doj_letter.pdf).

<sup>18</sup> Cash America International Inc. Political Action Committee, FEC Form 3X, 2014 September Monthly Report, September 2, 2014, available at <http://docquery.fec.gov/pdf/850/14950093850/14950093850.pdf>.

<sup>19</sup> ACE Cash Express, Inc. PAC, FEC Form 3X, 2014, October Quarterly Report, October 3, 2014, available at <http://docquery.fec.gov/pdf/732/14978059732/14978059732.pdf>.

<sup>20</sup> <https://www.congress.gov/bill/112th-congress/house-bill/1121/cosponsors?q=%7B%22search%22%3A%5B%22%5C%22hr1121%5C%22%22%5D%7D&resultIndex=3>.

<sup>21</sup> Yoder for Congress, Inc., FEC Form 3, 2011 April Quarterly Report, Amended, December 1, 2012, available at <http://docquery.fec.gov/pdf/105/12961307105/12961307105.pdf>; QC Holdings, Inc. Political Action Committee, FEC Form 3X, 2011 March Monthly Report, Amended, June 1, 2011, available at <http://docquery.fec.gov/pdf/985/11931582985/11931582985.pdf>; QC Holdings, Inc. Political Action Committee, FEC Form 3X, 2011 April Monthly Report, Amended, June 1, 2011, available at <http://docquery.fec.gov/pdf/000/11931583000/11931583000.pdf>; Cash America International Inc. Political Action Committee, FEC Form 3X, 2011 April Monthly Report, Amended, April 26, 2011, available at <http://docquery.fec.gov/pdf/135/11931268135/11931268135.pdf>.

<sup>22</sup> <https://www.congress.gov/bill/113th-congress/house-bill/1566/cosponsors?q=%7B%22search%22%3A%5B%22%5C%22hr1566%5C%22%22%5D%7D&resultIndex=2>.

Omar Ashmawy  
October 5, 2015  
Page Five

\$36,757 in campaign contributions from payday lending executives, PACs, and related individuals. These contributions include \$500 from payday lending executive Matthew J. Wiltanger of QC Holdings on September 10, 2013; \$500 each from payday lending executives Brian Elvin and Michael O. Walrod of QC Holdings on September 16, 2013; two payments of \$2,400 and \$2,600 each from payday lending executive Darrin Andersen of QC Holdings and Jill Andersen of the same address as Mr. Andersen on September 17, 2013; two payments of \$2,400 and \$2,600 from Don Early of QC Holdings on September 17, 2013; two payments of \$2,400 and \$2,600 from Mary Lou Early of QC Holdings on September 17, 2013; \$250 from Douglas E. Nickerson of QC Holdings on September 17, 2013, and an in-kind contribution of \$307 from Mr. Nickerson on September 16, 2013; \$500 from D. Scott Smith of QC Holdings on September 17, 2013; \$500 from Cathy Tharp of QC Holdings on September 17, 2013; \$500 from Michael E. Waters of QC Holdings on September 17, 2013; \$500 from Wayne Wood of QC Holdings on September 17, 2013; \$5,000 from Cash America International Inc. PAC on September 26, 2013; \$2,600 each from Rod Aycox of Select Management Resources and his wife Leslie Aycox on September 30, 2013; and \$2,500 from Kenneth E. Rees of Think Finance on September 30, 2013.<sup>23</sup>

Rep. Yoder also signed on to co-sponsor H.R. 4986 on July 17, 2014.<sup>24</sup> Weeks later he received a \$5,000 campaign contribution from Cash America International Inc. PAC.<sup>25</sup>

*Rep. Steve Stivers*

On September 13, 2012, Rep. Stivers signed on to co-sponsor H.R. 6139.<sup>26</sup> Eleven days earlier, he had received a \$5,000 contribution from Cash America International Inc.<sup>27</sup> Four days after co-sponsoring the bill, Rep. Stivers received two separate \$5,000 campaign contributions from Checksmart Financial LLC PAC and

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<sup>23</sup> Yoder for Congress, Inc., FEC Form 3, 2013 October Quarterly Report, Amended, December 7, 2013, available at <http://docquery.fec.gov/pdf/592/13943124592/13943124592.pdf>; Cash America International Inc. Political Action Committee, FEC Form 3X, 2013 October Monthly Report, October 21, 2013, available at <http://docquery.fec.gov/pdf/131/13942161131/13942161131.pdf>.

<sup>24</sup> <https://www.congress.gov/bill/113th-congress/house-bill/4986/cosponsors?q=%7B%22search%22%3A%5B%22%5C%22hr4986%5C%22%22%5D%7D&resultIndex=1>.

<sup>25</sup> Cash America International Inc. Political Action Committee, FEC Form 3X, 2014 September Monthly Report, September 2, 2014, available at <http://docquery.fec.gov/pdf/850/14950093850/14950093850.pdf>.

<sup>26</sup> <https://www.congress.gov/bill/112th-congress/house-bill/6139/cosponsors?q=%7B%22search%22%3A%5B%22%5C%22hr6139%5C%22%22%5D%7D&resultIndex=1>.

<sup>27</sup> Cash America International Inc. Political Action Committee, FEC Form 3X, 2012 October Monthly Report, October 2, 2012, available at <http://docquery.fec.gov/pdf/141/12954268141/12954268141.pdf>.

Omar Ashmawy  
October 5, 2015  
Page Six

Community Financial Services Association of America PAC.<sup>28</sup> Several weeks later, on October 10, 2012, he received a \$2,500 campaign contribution from David A. Davis of Axxess Financial.<sup>29</sup>

After the introduction of H.R. 4986, Rep. Stivers received a \$2,500 campaign contribution from Cash America International PAC on June 17, 2014.<sup>30</sup> Several weeks later, on July 10, 2014, Rep. Stivers agreed to co-sponsor the bill,<sup>31</sup> and in the weeks that followed he accepted a \$2,500 campaign contribution from American Financial Services Association PAC on August 1, 2014.<sup>32</sup>

Rep. Stivers also signed on to the August 22, 2013 letter.<sup>33</sup> In the weeks preceding this, he had received a number of campaign contributions including \$2,500 from Checksmart Financial LLC PAC on June 10, 2013; \$5,000 from Cash America International Inc. PAC on June 25, 2013; and \$2,500 from payday lending executive Kevin Dahlstrom of Think Finance on June 30, 2013.<sup>34</sup>

Similarly, just weeks before signing the October 16, 2014 letter to DOJ's inspector general, Rep. Stivers had received a contribution of \$1,000 from Axxess Financial Services Inc. PAC on September 30, 2014.<sup>35</sup> Rep. Stivers also had previously received a \$2,600 campaign contribution on September 22, 2014, from payday lending

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<sup>28</sup> Community Financial Services Association of America Political Action Committee, FEC Form 3X, 2012 October Quarterly Report, October 23, 2012, available at <http://docquery.fec.gov/pdf/746/12960682746/12960682746.pdf>; Checksmart Financial LLC Political Action Committee, FEC Form 3X, 2012 October Quarterly Report, October 15, 2012, available at <http://docquery.fec.gov/pdf/110/12972549110/12972549110.pdf>.

<sup>29</sup> Stivers for Congress, FEC Form 3, 2012 Pre-General Report, October 25, 2012, available at <http://docquery.fec.gov/pdf/774/12961033774/12961033774.pdf>.

<sup>30</sup> Cash America International Inc. Political Action Committee, FEC Form 3X, 2014 July Monthly Report, July 7, 2014, available at <http://docquery.fec.gov/pdf/325/14961524325/14961524325.pdf>.

<sup>31</sup> <https://www.congress.gov/bill/113th-congress/house-bill/4986/cosponsors?q=%7B%22search%22%3A%5B%22%5C%22hr4986%5C%22%22%5D%7D&resultIndex=1>.

<sup>32</sup> American Financial Services Association PAC, FEC Form 3X, 2014 September Monthly Report, Amended, May 26, 2015, available at <http://docquery.fec.gov/pdf/496/15951441496/15951441496.pdf>.

<sup>33</sup> See Exhibit A.

<sup>34</sup> Checksmart Financial LLC Political Action Committee, FEC Form 3X, 2013 Mid-Year Report, July 31, 2013, available at <http://docquery.fec.gov/pdf/980/13964475980/13964475980.pdf>; Cash America International Inc. Political Action Committee, FEC Form 3X, 2013 July Monthly Report, July 9, 2013, available at <http://docquery.fec.gov/pdf/880/13964010880/13964010880.pdf>; Stivers for Congress, FEC Form 3, 2013 July Quarterly Report, July 15, 2013, available at <http://docquery.fec.gov/pdf/549/13941130549/13941130549.pdf>.

<sup>35</sup> Axxess Financial Services Inc. PAC, FEC Form 3X, 2014 October Quarterly Report, Amended, January 29, 2015, available at <http://docquery.fec.gov/pdf/987/15970132987/15970132987.pdf>.

Omar Ashmawy  
October 5, 2015  
Page Seven

executive Rod A. Aycox of Loan Max Title Loan,<sup>36</sup> and a \$2,500 campaign contribution on September 25, 2014, from Cash America International Inc. PAC.<sup>37</sup> On September 26, 2014, Ace Cash Express Inc. PAC contributed \$1,000 to Rep. Stivers through this joint fundraising committee.<sup>38</sup>

*Rep. Stephen Fincher*

On July 19, 2012, Rep. Fincher signed on to co-sponsor H.R. 6139.<sup>39</sup> Ten days earlier Rep. Fincher had received a total of \$5,000 in campaign contributions from payday lending industry executives Dennis and Kimberly Gardner of the Equity Management Group.<sup>40</sup> Five days after co-sponsoring the legislation Rep. Fincher received a campaign contribution of \$2,500 from payday executive William Allan Jones of Jones Management.<sup>41</sup>

The following year on May 7, 2013, Rep. Fincher signed on to co-sponsor H.R. 1566, a bill similar to H.R. 6139.<sup>42</sup> On June 3, 2013, Rep. Fincher received a \$1,000 campaign contribution from a payday lending industry PAC, American Financial Services Association PAC.<sup>43</sup>

Rep. Fincher also signed on to the August 22, 2013 congressional letter to Attorney General Holder and FDIC Chairman Gruenberg.<sup>44</sup> Previously, on July 9, 2013, Rep. Fincher had received a \$5,000 campaign contribution from Cash America International Inc. PAC, a payday lending industry PAC.<sup>45</sup>

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<sup>36</sup> Stivers for Congress, FEC Form 3, 2014 October Quarterly Report, October 15, 2014, available at <http://docquery.fec.gov/pdf/954/14978276954/14978276954.pdf>.

<sup>37</sup> Cash America International Inc. Political Action Committee, FEC Form 3X, 2014 October Monthly Report, October 1, 2014, available at <http://docquery.fec.gov/pdf/083/14978044083/14978044083.pdf>.

<sup>38</sup> ACE Cash Express, Inc. PAC, FEC Form 3X, 2014 October Quarterly Report, October 3, 2014, available at <http://docquery.fec.gov/pdf/732/14978059732/14978059732.pdf>.

<sup>39</sup> <https://www.congress.gov/bill/112th-congress/house-bill/6139/cosponsors?q=%7B%22search%22%3A%5B%22%5C%22hr6139%5C%22%22%5D%7D&resultIndex=1>.

<sup>40</sup> Steve Fincher for Congress, FEC Form 3, 2012 Pre-Primary Report, July 21, 2012, available at <http://docquery.fec.gov/pdf/410/12952581410/12952581410.pdf>.

<sup>41</sup> Steve Fincher for Congress, FEC Form 3, 2012 October Quarterly Report, October 15, 2012, available at <http://docquery.fec.gov/pdf/898/12972593898/12972593898.pdf>.

<sup>42</sup> <https://www.congress.gov/bill/113th-congress/house-bill/1566/cosponsors?q=%7B%22search%22%3A%5B%22%5C%22hr1566%5C%22%22%5D%7D&resultIndex=2>.

<sup>43</sup> American Financial Services Association PAC, FEC Form 3X, 2013 July Monthly Report, Amended, February 2, 2015, available at <http://docquery.fec.gov/pdf/172/15950592172/15950592172.pdf>.

<sup>44</sup> See Exhibit A.

<sup>45</sup> Cash America International Inc. Political Action Committee, FEC Form 3X, 2013 August Monthly Report, August 1, 2013, available at <http://docquery.fec.gov/pdf/453/13964491453/13964491453.pdf>.

*Rep. Patrick McHenry*

Rep. McHenry signed on to co-sponsor H.R. 1121 on March 16, 2011.<sup>46</sup> In the preceding weeks, he had received \$8,000 from payday lending industry PACs including \$4,000 from QC Holdings, Inc. PAC on February 24, 2011; \$1,000 from Cash America International Inc. PAC on February 25, 2011; \$1,000 from Ace Cash Express Inc. PAC on March 1, 2011; and \$2,000 from Checksmart Financial LLC PAC on March 14, 2011.<sup>47</sup> Five days after co-sponsoring the bill, Rep. McHenry received a total of \$17,900 in campaign contributions from payday lending executives, including C. Dan Adams of Integrity Funding, Douglas Clark from Axxess Financial, Ian and Jean MacKechnie of Amscot Financial, James T. Marchesi of Check City, Randall McCoy of Express Check Advance, and Anthony Scales of Express Financial Services.<sup>48</sup> On March 30, he received two campaign contributions of \$305 and \$4,694 from Community Financial Services Association of America PAC,<sup>49</sup> and the following day he received two separate \$5,000 campaign contributions from Advance America Cash Advance Centers Inc. PAC.<sup>50</sup> Then on April 20, 2011, Rep. McHenry received four separate campaign contributions from David Bassford of Money Tree, Inc. totaling \$7,300;<sup>51</sup> two separate contributions from Sara Bassford totaling \$2,700; a \$2,000 contribution from A. David Davis of Check-N-Go; \$2,000 from Jared Davis of Axxess Financial; and \$500 from Roger Dean also of Axxess Financial.<sup>52</sup> Rep. McHenry's support for H.R. 1121 earned him a total of \$55,399 in campaign contributions.

<sup>46</sup> <https://www.congress.gov/bill/112th-congress/house-bill/1121/cosponsors?q=%7B%22search%22%3A%5B%22%5C%22hr1121%5C%22%22%5D%7D&resultIndex=3>.

<sup>47</sup> QC Holdings, Inc. Political Action Committee, FEC Form 3X, 2011 March Monthly Report, Amended, June 1, 2011, available at <http://docquery.fec.gov/pdf/985/11931582985/11931582985.pdf>; Cash America International Inc. Political Action Committee, FEC Form 3X, 2011 March Monthly Report, March 1, 2011, available at <http://docquery.fec.gov/pdf/547/11930426547/11930426547.pdf>; ACE Cash Express, Inc. PAC, FEC Form 3X, 2011 Mid-Year Report, Amended, December 12, 2011, available at <http://docquery.fec.gov/pdf/149/11972717149/11972717149.pdf>; Checksmart Financial LLC Political Action Committee, FEC Form 3X, 2011 Mid-Year Report, July 28, 2011, available at <http://docquery.fec.gov/pdf/916/11932100916/11932100916.pdf>.

<sup>48</sup> McHenry for Congress FEC Form 3, 2011 April Quarterly Report, April 15, 2011, available at <http://docquery.fec.gov/pdf/588/11930694588/11930694588.pdf>.

<sup>49</sup> Community Financial Services Association of America Political Action Committee, FEC Form 3X, 2011 Mid-Year Report, October 23, 2012, available at <http://docquery.fec.gov/pdf/867/12940376867/12940376867.pdf>.

<sup>50</sup> Advance America Cash Advance Centers Inc. PAC, FEC Form 3X, 2011 Mid-Year Report, July 28, 2011, available at <http://docquery.fec.gov/pdf/386/11932092386/11932092386.pdf>.

<sup>51</sup> These contributions exceeded the contribution limit for individuals contributing to candidate committees during the 2012 election cycle, which was \$2,500 per election for a total of \$5,000. See <http://www.fec.gov/press/20110203newlimits.shtml>.

<sup>52</sup> McHenry for Congress FEC Form 3, 2011 July Quarterly Report, July 15, 2011, available at <http://docquery.fec.gov/pdf/969/11931918969/11931918969.pdf>.



Omar Ashmawy  
October 5, 2015  
Page Nine

Rep. McHenry also signed on to the August 22, 2013 letter to the attorney general and FDIC chair. In the preceding weeks he had received a total of \$12,800 in campaign contributions from payday lending industry executives and PACs. These include \$2,500 from QC Holdings, Inc. PAC on July 13, 2013;<sup>53</sup> \$2,600 from Advance America Cash Advance Centers Inc. PAC on July 18, 2013;<sup>54</sup> \$2,600 from Tracy Rawle of Softwise Corp. Software on July 29, 2013; \$2,500 from William A. Jones III of Check Into Cash also on July 29, 2013; and \$2,600 from C. Dan Adams of Integrity Funding on August 7, 2013.<sup>55</sup> After the letter was sent Rep. McHenry received a \$2,500 campaign contribution on September 11, 2013, from American Financial Services Association PAC.<sup>56</sup>

*Rep. Pete Sessions*

Rep. Pete Sessions also signed on to co-sponsor H.R. 1121 on March 16, 2011.<sup>57</sup> The preceding month, on February 18, 2011, he had received two separate \$5,000 campaign contributions from Cash America International Inc. PAC,<sup>58</sup> and on March 1, 2011, he had received a \$1,000 contribution from Mary Jackson of Cash America Inc.<sup>59</sup>

Rep. Sessions also signed on to co-sponsor H.R. 4986 on July 15, 2014,<sup>60</sup> a day after receiving a \$5,000 campaign contribution from Cash America International Inc. PAC.<sup>61</sup>

Similarly, after signing on to the August 22, 2013 letter to the attorney general and FDIC chair, Rep. Sessions received a \$2,500 campaign contribution from American

<sup>53</sup> QC Holdings, Inc. Political Action Committee, FEC Form 3X, August Monthly Report, August 13, 2013, available at <http://docquery.fec.gov/pdf/111/13941325111/13941325111.pdf>.

<sup>54</sup> Advance America Cash Advance Centers Inc. PAC, FEC Form 3X, 2013 Year-End Report, January 9, 2014, available at <http://docquery.fec.gov/pdf/402/14940012402/14940012402.pdf>.

<sup>55</sup> McHenry for Congress FEC Form 3, 2013 October Quarterly Report, Amended, September 23, 2014, available at <http://docquery.fec.gov/pdf/231/14974204231/14974204231.pdf>.

<sup>56</sup> American Financial Services Association PAC, FEC Form 3X, 2013 October Monthly Report, Amended, February 2, 2015, available at <http://docquery.fec.gov/pdf/254/15950592254/15950592254.pdf>.

<sup>57</sup> <https://www.congress.gov/bill/112th-congress/house-bill/1121/cosponsors?q=%7B%22search%22%3A%5B%22%5C%22hr1121%5C%22%22%5D%7D&resultIndex=3>.

<sup>58</sup> Cash America International Inc. Political Action Committee, FEC Form 3X, 2011 March Monthly Report, March 1, 2013, available at <http://docquery.fec.gov/pdf/547/11930426547/11930426547.pdf>.

<sup>59</sup> Pete Sessions For Congress, FEC Form 3, 2011 April Quarterly Report, April 15, 2011, available at <http://docquery.fec.gov/pdf/864/11930668864/11930668864.pdf>.

<sup>60</sup> <https://www.congress.gov/bill/113th-congress/house-bill/4986/cosponsors?q=%7B%22search%22%3A%5B%22%5C%22hr4986%5C%22%22%5D%7D&resultIndex=1>.

<sup>61</sup> Cash America International Inc. Political Action Committee, FEC Form 3X, 2014 August Monthly Report, August 4, 2014, available at <http://docquery.fec.gov/pdf/103/14942400103/14942400103.pdf>.

Omar Ashmawy  
October 5, 2015  
Page Ten

Financial Services Association PAC on September 27, 2013,<sup>62</sup> and a \$5,000 campaign contribution from Cash America International Inc. PAC on October 28, 2013.<sup>63</sup>

*Rep. Alcee Hastings*

On May 21, 2013, Rep. Hastings signed on to co-sponsor H.R. 1566.<sup>64</sup> Less than two months earlier, on March 27, 2013, he had received a \$2,500 campaign contribution from payday lending executive Ian MacKechnie of Amscot Financial,<sup>65</sup> who also made another campaign contribution of \$500 to Rep. Hastings on June 28, 2013, following Rep. Hastings's support for H.R. 1566.<sup>66</sup>

Rep. Hastings also signed on to co-sponsor H.R. 4986, a bill aimed at ending Operation Choke Point, on July 10, 2014.<sup>67</sup> Cash America International Inc. PAC, a payday lending industry PAC, made a \$2,500 campaign contribution to Rep. Hastings on June 17, 2014.<sup>68</sup>

*Rep. Scott Garrett*

Rep. Garrett signed on as a co-sponsor of H.R. 1121 on March 16, 2011.<sup>69</sup> Two weeks later on March 31, 2011, he received a \$1,000 campaign contribution from payday lending executive Ian MacKechnie of Amscot Financial, Inc.<sup>70</sup> Rep. Garrett also signed the August 22, 2013 letter to Attorney General Holder and FDIC Chair Gruenberg.<sup>71</sup>

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<sup>62</sup> American Financial Services Association PAC, FEC Form 3X, 2013 October Monthly Report, Amended, February 2, 2015, available at <http://docquery.fec.gov/pdf/254/15950592254/15950592254.pdf>.

<sup>63</sup> Cash America International Inc. Political Action Committee, FEC Form 3X, 2013 November Monthly Report, November 4, 2013, available at <http://docquery.fec.gov/pdf/533/13942249533/13942249533.pdf>.

<sup>64</sup> <https://www.congress.gov/bill/113th-congress/house-bill/1566/cosponsors?q=%7B%22search%22%3A%5B%22%5C%22hr1566%5C%22%22%5D%7D&resultIndex=2>.

<sup>65</sup> Hastings for Congress FEC Form 3, 2013 April Quarterly Report, April 12, 2013, available at <http://docquery.fec.gov/pdf/525/13961285525/13961285525.pdf>.

<sup>66</sup> Hastings for Congress FEC Form 3, 2013 July Quarterly Report, July 10, 2013, available at <http://docquery.fec.gov/pdf/733/13940975733/13940975733.pdf>.

<sup>67</sup> <https://www.congress.gov/bill/113th-congress/house-bill/4986/cosponsors?q=%7B%22search%22%3A%5B%22%5C%22hr4986%5C%22%22%5D%7D&resultIndex=1>.

<sup>68</sup> Cash America International Inc. Political Action Committee, FEC Form 3X, 2014 July Monthly Report, July 7, 2014, available at <http://docquery.fec.gov/pdf/325/14961524325/14961524325.pdf>.

<sup>69</sup> <https://www.congress.gov/bill/112th-congress/house-bill/1121/cosponsors?q=%7B%22search%22%3A%5B%22%5C%22hr1121%5C%22%22%5D%7D&resultIndex=3>.

<sup>70</sup> Scott Garrett for Congress, FEC Form 3, 2011 April Quarterly Report, April 15 2011, available at <http://docquery.fec.gov/pdf/810/11930693810/11930693810.pdf>.

<sup>71</sup> See Exhibit A.

Omar Ashmawy  
October 5, 2015  
Page Eleven

Weeks later on October 4, 2013, he received a \$2,500 campaign contribution from QC Holdings Inc. PAC, a payday lending industry PAC.<sup>72</sup>

*Rep. Jeb Hensarling*

Rep. Hensarling signed on to co-sponsor H.R. 1121 on March 16, 2011.<sup>73</sup> Just a few weeks earlier, he had received \$8,500 in campaign contributions from payday lending executives and industry PACs, including \$2,500 from ACE Cash Express, Inc. PAC on February 15, 2011;<sup>74</sup> \$5,000 from Cash America International Inc. PAC on February 18, 2011;<sup>75</sup> and \$1,000 from Mary L. Jackson of Cash America International Inc. on February 22, 2011.<sup>76</sup>

*Rep. Randy Neugebauer*

On March 16, 2011, Rep. Neugebauer signed on to co-sponsor H.R. 1121.<sup>77</sup> The previous month, on February 9, 2011, he had received a \$1,000 campaign contribution from payday executive W. Lee Moore of Check Cash, Inc.<sup>78</sup> Following his co-sponsorship, Rep. Neugebauer received a \$2,000 campaign contribution from W. Allan Jones of Check Into Cash, Inc. on March 23, 2011, and two separate \$2,500 campaign contributions from C. Dan Adams of the Capital Corporation on March 30, 2011.<sup>79</sup>

*Rep. Gregory Meeks*

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<sup>72</sup> QC Holdings, Inc. Political Action Committee, FEC Form 3X, 2013 November Monthly Report, Amended, November 12, 2013, available at <http://docquery.fec.gov/pdf/894/13942280894/13942280894.pdf>.

<sup>73</sup> <https://www.congress.gov/bill/112th-congress/house-bill/1121/cosponsors?q=%7B%22search%22%3A%5B%22%5C%22hr1121%5C%22%22%5D%7D&resultIndex=3>.

<sup>74</sup> ACE Cash Express, Inc. PAC, FEC Form 3X, 2011 Mid-Year Report, Amended, December 12, 2011, available at <http://docquery.fec.gov/pdf/149/11972717149/11972717149.pdf>.

<sup>75</sup> Cash America International Inc. Political Action Committee, FEC Form 3X, 2011 March Monthly Report, March 1, 2011, available at <http://docquery.fec.gov/pdf/547/11930426547/11930426547.pdf>.

<sup>76</sup> Friends of Jeb Hensarling, FEC Form 3, 2011 April Quarterly Report, Amended, October 14, 2011, available at <http://docquery.fec.gov/pdf/752/11971589752/11971589752.pdf>.

<sup>77</sup> <https://www.congress.gov/bill/112th-congress/house-bill/1121/cosponsors?q=%7B%22search%22%3A%5B%22%5C%22hr1121%5C%22%22%5D%7D&resultIndex=3>.

<sup>78</sup> Neugebauer Congressional Committee, FEC Form 3, 2011 April Quarterly Report, April 15, 2011, available at <http://docquery.fec.gov/pdf/818/11930684818/11930684818.pdf>.

<sup>79</sup> *Id.*

Omar Ashmawy  
October 5, 2015  
Page Twelve

Rep. Meeks signed on as a co-sponsor for H.R. 1566 on April 15, 2013.<sup>80</sup> Just three days later, he received a \$5,000 campaign contribution from Cash America International Inc. PAC.<sup>81</sup>

### Violations

The timing of the official acts each of these 11 members took, either directly preceding or following campaign and/or PAC contributions from payday industry executives and industry PACs, suggests the campaign contributions were made in exchange for legislative assistance in violation of federal law and House rules.

#### Acceptance of a Bribe

Federal law prohibits public officials from directly or indirectly demanding, seeking, receiving, accepting, or agreeing to receive or accept anything of value in return for being influenced in the performance of an official act.<sup>82</sup> It is well-settled that accepting a contribution to a political campaign can constitute a bribe if a *quid pro quo* can be demonstrated.<sup>83</sup> Recently, Senator Robert Menendez (D-NJ) was indicted for bribery for allegedly performing official acts in exchange for a contribution to a super PAC that was earmarked for his Senate race and benefitted him.<sup>84</sup>

If, as it appears, these representatives accepted donations to their campaigns and PACs in direct exchange for specific action on behalf of the payday lending industry, they may have violated the bribery statute.

#### Honest Services Fraud

Federal law prohibits a member of Congress from depriving his constituents, the House of Representatives, and the United States of the right of honest service, including conscientious, loyal, faithful, disinterested, unbiased service, performed free of deceit, undue influence, conflict of interest, self-enrichment, self-dealing, concealment, bribery,

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<sup>80</sup> <https://www.congress.gov/bill/113th-congress/house-bill/1566/cosponsors?q=%7B%22search%22%3A%5B%22%5C%22hr1566%5C%22%22%5D%7D&resultIndex=2>.

<sup>81</sup> Cash America International Inc. Political Action Committee, FEC Form 3X, 2013 May Monthly Report, May 1, 2013, available at <http://docquery.fec.gov/pdf/213/13962156213/13962156213.pdf>.

<sup>82</sup> 18 U.S.C. § 201(b)(2)(A).

<sup>83</sup> *McCormick v. U.S.*, 500 U.S. 257, 273 (1991); *United States v. Biaggi*, 909 F.2d 662, 605 (2d Cir. 1990), cert. denied, 499 U.S. 904 (1991).

<sup>84</sup> Indictment, *United States v. Robert Menendez and Salomon Melgen*, 2:15-CR-00155 (D. N.J. Apr. 1, 2015), ¶¶ 255, 259.

Omar Ashmawy  
October 5, 2015  
Page Thirteen

fraud and corruption.<sup>85</sup> Recently, Sen. Menendez was charged with honest services fraud based on a contribution to a super PAC that benefited him.<sup>86</sup>

If, as it appears, any of these members of Congress used their positions to financially benefit the payday lending industry in exchange for contributions to their campaigns and/or PACs, they may have deprived their constituents, the House of Representatives, and the United States of their honest services in violation of 18 U.S.C. §§ 1341, 1346.

### **Illegal Gratuity**

The illegal gratuity statute prohibits a public official from directly or indirectly demanding, seeking, receiving, accepting, or agreeing to accept anything of value personally for or because of any official act performed or to be performed by such official.<sup>87</sup> In considering this statute, the Supreme Court has held that a link must be established between the gratuity and a specific action taken by or to be taken by the government official.<sup>88</sup>

If a link is established between these 11 members introducing legislation, sending letters to government agencies or taking other action and their accepting or agreeing to accept contributions to their campaigns and/or PACs, they may have violated the illegal gratuity statute.

In addition, the Committee on Standards of Official Conduct has used the acceptance of bribes and gratuities under these statutes as a basis for disciplinary proceedings and punishment of members, including expulsion.<sup>89</sup>

### **5 U.S.C. § 7353 and House Rule XXIII**

A provision of the Ethics Reform Act of 1989, 5 U.S.C. § 7353, prohibits members of the House, officers, and employees from asking for anything of value from a broad range of people, including “anyone who seeks official action from the House, does

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<sup>85</sup> See Information, *United States v. Jack A. Abramoff*, 1:06-cr-00001(D.D.C. Jan. 3, 2006), ¶ 26.

<sup>86</sup> Menendez Indictment, ¶¶ 263-65.

<sup>87</sup> 18 U.S.C. § 201(c)(1)(B).

<sup>88</sup> *United States v. Sun-Diamond Growers of Cal.*, 526 U.S. 398 (1999).

<sup>89</sup> *In the Matter of Representative Mario Biaggi*, H.R. Rep. No. 100-506, 100<sup>th</sup> Cong., 2d Sess. (1988) (recommending expulsion of the member from the House); *In the Matter of Representative Daniel J. Flood*, H.R. Rep. No. 96-856, 96<sup>th</sup> Cong., 2d Sess. (1980).

Omar Ashmawy  
October 5, 2015  
Page Fourteen

business with the House, or has interests which may be substantially affected by the performance of official duties.”<sup>90</sup> House Rule XXIII, clause 3, similarly provides:

A Member, Delegate, Resident Commissioner, or employee of the House may not receive compensation and may not permit compensation to accrue to his beneficial interest from any source, the receipt of which would occur by virtue of influence improperly exerted from his position in the Congress.

The House Ethics Manual specifically explains that this section applies to campaign contributions stating, a member “may not accept any contribution that the donor links to any official action” that a member “has taken or is being asked to take.”<sup>91</sup>

The House Committee on Ethics previously has been critical of members whose conduct has created at least the appearance of offering special treatment to donors. Particularly focusing on the timing of the event, the committee admonished then-Majority Leader Tom DeLay for participating in a fundraiser just as a House-Senate conference on major energy legislation was about to begin. According to the committee, “a Member should not participate in a fundraising event that gives even an appearance that donors will receive or are entitled to either special treatment or access.”<sup>92</sup>

Similarly, here these 11 members have taken numerous official actions – including sponsoring legislation and attempting to derail both enforcement and regulatory efforts – to benefit the payday lending industry either following close on the heels or slightly in advance of campaign and/or PAC contributions.<sup>93</sup> Such conduct likely violates 5 U.S.C. § 7353 and House Rule XXIII.

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<sup>90</sup> See House Comm. on Standards of Official Conduct, “Memorandum For All Members, Officers and Employees,” Rules Governing (1) Solicitation by Members, Officers and Employees in General, and (2) Political Fundraising Activity in House Offices, April 25, 1997.

<sup>91</sup> House Comm. on Standards of Official Conduct, *House Ethics Manual*, p. 150 (110<sup>th</sup> Cong. 2d Sess.).

<sup>92</sup> Letter from House Committee on Ethics to Rep. Tom DeLay, October 6, 2004, at 1, 2, *available at* <https://ethics.house.gov/committee-report/2nd-session-report-105-797/letter-representative-tom-delay>.

<sup>93</sup> In 2010, OCE investigated eight members who either held fundraisers or received campaign contributions just before a House vote on an amendment to a financial regulatory reform bill that would have subjected the auto industry to greater regulatory oversight. See, e.g., Carol D. Leonnig, 8 House Members Investigated Over Fundraisers Held Near Financial Reform Vote, *Washington Post*, June 16, 2010, *available at* <http://www.washingtonpost.com/wp-dyn/content/article/2010/06/15/AR2010061505643.html>. Although OCE concluded there was not substantial reason to believe any of the eight members solicited or accepted contributions in exchange for performing an official act, the facts differed significantly from those present here. The fundraisers in question were attended by a range of financial groups, not limited to those just in the auto industry. Here, by contrast, the campaign contributions at issue were all made exclusively by payday lending executives and PACs in very close proximity to official

**5 C.F.R. § 2635.702(a)**

Members of the House are prohibited from “taking any official actions for the prospect of personal gain for themselves or anyone else.”<sup>94</sup> House members are directed to adhere to 5 C.F.R. § 2635.702(a), issued by the U.S. Office of Government Ethics for the Executive Branch, which provides:

An employee shall not use or permit use of his Government position or title or any authority associated with his public office in a manner that is intended to coerce or induce another person . . . to provide any benefit, financial or otherwise, to himself or to friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity.

The Code of Ethics also provides that government officials should “[n]ever discriminate unfairly by the dispensing of special favors or privileges to anyone whether for remuneration or not.”<sup>95</sup>

If, as it appears, any of these 11 members took action such as sending letters to executive agencies and/or sponsoring legislation to benefit the payday lending industry in return for campaign and/or PAC contributions, they may have dispensed special favors in violation of 5 C.F.R. § 2635.702(a).

**Conduct Not Reflecting Creditably on the House**

Rule XXIII of the House Ethics Manual requires all members of the House to conduct themselves “at all times in a manner that reflects creditably on the House.”<sup>96</sup> This ethics standard is considered to be “the most comprehensive provision” of the code.<sup>97</sup> When this section was first adopted, the Select Committee on Standards of Official Conduct of the 90th Congress noted that it was included within the Code to deal with “flagrant” violations of the law that reflect on “Congress as a whole,” and that might

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actions on their behalf. In any event, the Menendez prosecution reinforces the significance of timing as a key factor in deciding whether an official action was taken as a *quid pro quo* for a campaign contribution.

<sup>94</sup> House Comm. on Standards of Official Conduct, “Memorandum For All Members, Officers and Employees,” Prohibition Against Linking Official Actions to Partisan or Political Considerations, or Personal Gain, May 11, 1999.

<sup>95</sup> *Id.*

<sup>96</sup> Rule 23, clause 1.

<sup>97</sup> House Comm. on Standards of Official Conduct, *House Ethics Manual*, p. 12.

otherwise go unpunished.<sup>98</sup> This rule has been relied on by the Ethics Committee in numerous prior cases in which the Committee found unethical conduct including: the failure to report campaign contributions,<sup>99</sup> making false statements to the Committee,<sup>100</sup> criminal convictions for bribery,<sup>101</sup> or accepting illegal gratuities,<sup>102</sup> and accepting gifts from persons with interest in legislation in violation of the gift rule.<sup>103</sup>

If, as it appears, these 11 members of Congress accepted campaign and/or PAC contributions in return for legislative favors such as letters to executive branch agencies and/or the sponsorship of legislation in exchange for campaign and/or PAC contributions, their conduct would not reflect creditably on the House in violation of Rule XXIII, clause 1.

### Conclusion

The payday lending industry preys on some of the most vulnerable members of our society, deliberately plunging them into a cycle of debt in order to reap high profits. The idea that members of Congress are trading the power of their offices to help unscrupulous payday lenders avoid badly needed oversight and regulation in return for campaign contributions undermines public confidence in the institution as a whole. As a result, the Office of Congressional Ethics should immediately commence an investigation

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<sup>98</sup> House Comm. on Standards of Official Conduct, *Report Under the Authority of H. Res. 418*, H. Rep. No. 1176, 90th Cong., 2d Sess. 17 (1968).

<sup>99</sup> House Comm. on Standards of Official Conduct, *In the Matter of Representative John J. McFall*, H. Rep. No. 95-1742, 95th Cong., 2d Sess. 2-3 (1978) (Count 1); *In the Matter of Representative Edward R. Roybal*, H. Rep. No. 95-1743, 95th Cong., 2d Sess. 2-3 (1978).

<sup>100</sup> House Comm. on Standards of Official Conduct, *In the Matter of Representative Charles H. Wilson (of California)*, H. Rep. No. 95-1741, 95th Cong., 2d Sess. 4-5 (1978); H. Rep. No. 95-1743 (Counts 3-4).

<sup>101</sup> House Comm. on Standards of Official Conduct, *In the Matter of Representative Michael J. Myers*, H. Rep. No. 96-1387, 96th Cong., 2d Sess. 2, 5 (1980); see 126 Cong. Rec. 28953-78 (Oct. 2, 1980) (debate and vote of expulsion); *In the Matter of Representative John W. Jenrette, Jr.*, H. Rep. No. 96-1537, 96th Cong., 2d Sess. 4 (1980) (Member resigned); *In the Matter of Representative Raymond F. Lederer*, H. Rep. No. 97-110, 97th Cong., 1st Sess. 4, 16-17 (1981) (Member resigned after Committee recommended expulsion). In another case, the Committee issued a Statement of Alleged Violation concerning bribery and perjury, but took no further action when the Member resigned (*In the Matter of Representative Daniel J. Flood*, H. Rep. No. 96-856, 96th Cong., 2d Sess. 4-16, 125-126 (1980)).

<sup>102</sup> House Comm. on Standards of Official Conduct, *In the Matter of Representative Mario Biaggi*, H. Rep. No. 100-506, 100th Cong., 2d Sess. 7, 9 (1988) (Member resigned while expulsion resolution was pending).

<sup>103</sup> House Comm. on Standards of Official Conduct, *In the Matter of Representative Charles H. Wilson (of California)*, H. Rep. No. 96-930, 96th Cong. 2d Sess. 4-5 (1980); see 126 Cong. Rec. 13801-20 (June 10, 1980) (debate and vote of censure).



Omar Ashmawy  
October 5, 2015  
Page Seventeen

of this matter to determine whether the 11 members listed above have violated House rules and criminal law.

I hereby affirm that to the best of my knowledge and ability all evidence submitted was not obtained in violation of any law, rule, or regulation. I am aware that the False Statements Act, 18 U.S.C. § 1001, applies to information submitted to the Office of Congressional Ethics.

Sincerely,



Anne L. Weismann  
Executive Director  
Campaign for Accountability

Encl.

# **EXHIBIT A**

**Congress of the United States**  
**Washington, DC 20515**

August 22, 2013

The Honorable Eric Holder  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530

The Honorable Martin J. Gruenberg  
Chairman  
Federal Deposit Insurance Commission  
550 17<sup>th</sup> Street, NW  
Washington, D.C. 20429

Dear Attorney General Holder and Chairman Gruenberg:

It has come to our attention that the Department of Justice (DOJ) and Federal Deposit Insurance Corporation (FDIC) are leading a joint agency effort that, according to a DOJ official, is intended to “change the structures within the financial system...choking [online short-term lenders] off from the very air they need to survive.”<sup>1</sup> Your efforts to stop banks from processing these lawful transactions would destroy many legitimate, legally compliant companies and small businesses, and adversely impact tens of millions of low-income American families who depend on short-term credit provided by online lenders because they do not qualify for traditional loans or credit cards.

More than one in four American households conducts some or all of their financial transactions outside the mainstream banking system, according to the results of the FDIC's 2011 National Survey of Unbanked and Underbanked Households. If the government cuts off underserved consumers' credit options, it will force many Americans who live paycheck-to-paycheck to turn to unregulated and unsafe alternatives that are much more expensive than currently available short-term credit products.

We are especially troubled by reports that the DOJ and FDIC are intimidating some community banks and third party payment processors with threats of heightened regulatory scrutiny unless they cease doing business with online lenders. As a result, many banks and payment processors are terminating relationships with many of their long-term customers who provide underserved consumers with short-term credit options.

We understand that, as with any industry, there are bad actors in online and nondepository lending. We support your efforts to protect consumers with disclosure rules that protect consumers by giving them full information. We also believe in strong enforcement of existing laws designed to prevent abusive lending. However, it is highly inappropriate to pre-judge an entire industry, or significant portions of it. Your current actions would eliminate the basic processing services that legitimate lenders rely upon to serve millions of Americans. A much more targeted approach is required.

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<sup>1</sup> Alan Zibel and Brent Kendall, *Prosecutors Target Firms that Process Payments for Online Payday Lenders, Others*, Wall Street Journal, Aug. 8, 2013, at A1.

Regulators must be especially careful not to impose undue restrictions on online credit services because many underserved consumers find it more convenient to go online than to drive to a storefront lender, and they enjoy the convenience and privacy that only the Internet can provide. These competitive advantages have made internet lending a nationwide and global business.

Underserved consumers need more access to innovative and better-suited financial products and services, not less. Federal banking regulators such as the FDIC should focus on finding creative, realistic ways to help low-income families make ends meet, instead of cutting off access to legal online lenders.

Your actions to “choke off” short-term lenders by changing the structure of the financial system are outside your congressional mandate. With the enactment of the Dodd-Frank Act, Congress acknowledged the need for short-term credit products and did not try to limit online lender’s or storefront operators’ ability to offer such products.

Dodd-Frank also included a specific provision designed to prohibit the Consumer Financial Protection Bureau (CFPB) from imposing rate limitations on short-term loans. Neither Dodd-Frank, nor any other legislation passed by Congress, has given the DOJ, FDIC or any other federal agency the authority to “take away the very air” that online lenders “need to survive.”

Given the threat that the overreaching actions taken by your agencies pose to low-income American families who depend on short-term, online credit to pay their bills and feed their families, we ask that you promptly suspend any activities that could deny any lawfully operating lenders access to the payments system. Additionally, we strongly encourage your agencies to immediately stop any actions designed to pressure banks and payment processors to terminate business relationships with lawful lenders.

We take the actions of your agencies very seriously and look forward to a detailed and prompt response. Additionally, we request that your agencies contact Chris Brown of Rep. Luetkemeyer’s staff ([ChrisBrown@mail.house.gov](mailto:ChrisBrown@mail.house.gov) or 202.225.2956) or Lara Driscoe of Rep. Yoder’s staff ([LaraDriscoe@mail.house.gov](mailto:LaraDriscoe@mail.house.gov) or 202.225.2865) to arrange a staff briefing on this matter.

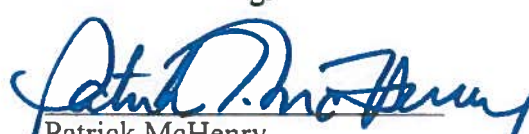
Thank you in advance for your consideration and timely response.

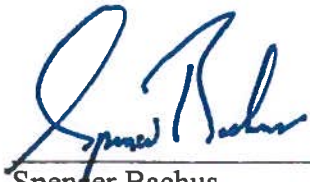
Sincerely,

  
Blaine Luetkemeyer  
Member of Congress

  
Kevin Yoder  
Member of Congress

  
Pete Sessions  
Member of Congress

  
Patrick McHenry  
Member of Congress



Spencer Bachus  
Member of Congress



Steve Stivers  
Member of Congress



Scott Garrett  
Member of Congress



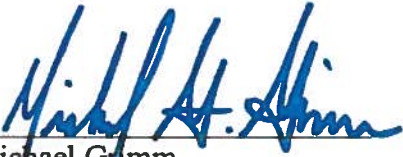
Tom Cotton  
Member of Congress



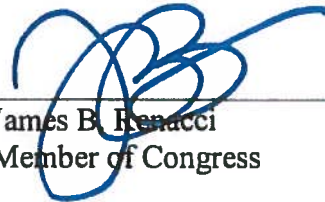
David Schweikert  
Member of Congress



Lynn Westmoreland  
Member of Congress



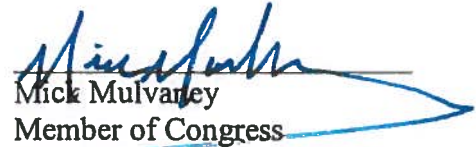
Michael Grimm  
Member of Congress



James B. Renacci  
Member of Congress



Kenny Marchant  
Member of Congress



Mick Mulvaney  
Member of Congress



Ann Wagner  
Member of Congress



Andy Barr  
Member of Congress



Tom Graves  
Member of Congress



Trey Radel  
Member of Congress



Pete Olson  
Member of Congress



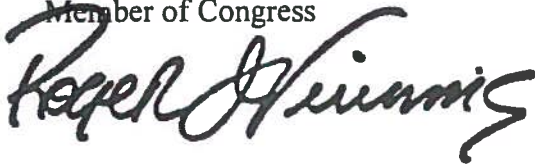
Walter B. Jones  
Member of Congress



Stephen Fincher  
Member of Congress



Dennis A. Ross  
Member of Congress



Roger Williams  
Member of Congress



Steve Womack  
Member of Congress



Chuck Fleischmann  
Member of Congress



Tim Griffin  
Member of Congress



Stevan Pearce  
Member of Congress



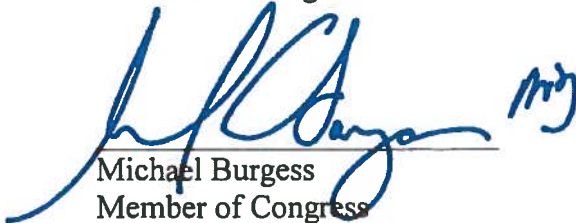
Steve Chabot  
Member of Congress



Robert Hurt  
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